

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

September 11, 2009

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: AUTHORIZATION FOR THE CHAIR TO SIGN A MEMORANDUM
OF UNDERSTANDING WITH THE MAUNA KEA WATERSHED
ALLIANCE

This submittal requests the Board to authorize the Chairperson to sign a Memorandum of Understanding (MOU) with the Mauna Kea Watershed Alliance pursuant to the terms outlined below and subject to approval by the Attorney General.

BACKGROUND:

The proposed Mauna Kea Watershed Alliance includes seven landowners:

- Department of Land and Natural Resources (DLNR)
- Department of Hawaiian Homelands
- Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools
- University of Hawaii, Office of Mauna Kea Management
- Parker Ranch
- United States Army
- Kukaiau Ranch

Since 1991, DLNR has become a member of nine existing voluntary alliances of public and private landowners protecting over one million acres of forested watershed for water recharge and conservation values. The Division of Forestry and Wildlife drafted a Mauna Kea Watershed Partnership Scoping Study in June of 2008 focusing on the area from Hilo to just south of Waipio Valley, which is the boundary of the Kohala Watershed Partnership. Through resource analysis, interviews with owners and managers, and discussions with community stakeholders, the study concluded that there was sufficient confluence of interest, need and opportunity to merit establishment of a partnership in a portion of the study area. Mauna Kea provides the primary water source for Big Island residents and its forests are home to rare and increasingly threatened native species and ecosystems. The area encompasses 5 aquifer systems defined by

the Commission on Water Resource Management: Honoka'a, Pa'auilo, Hakalau, Onomea, and Hilo. Key threats identified in the report include:

- Invasive species: gorse, miconia, strawberry guava, fountain grass, banana poka, others
- Feral ungulates: cattle, pigs, sheep, mouflon, goats
- Human activities: off-road vehicles, trespass, arson, destruction of cultural sites
- Wildfire
- Aquatic pollutants: human waste, pesticides, herbicides, industrial solvents

The study recommended establishing the watershed partnership first with the largest landowners and including smaller landowners once the groundwork had been laid. With the help of the U.S. Fish and Wildlife Service, DOFAW attempted to contact all parties who with more than 1000 acres above the 2,000' elevation (19 owners). Seven of the largest land owners expressed immediate interest as all of them are currently members of either the Three Mountain Alliance or the Kohala Watershed Partnership so they are already familiar with the benefits of joining such an alliance. Other landowners have expressed interest in joining but so far have not attended any of the meetings. Meetings were held in February, April, July, and September of 2009. Notices and minutes were distributed to anyone who expressed interest. Meetings focused on drafting an MOU and creating a Scope of Work for the drafting of a watershed management plan. A grant was awarded to the Pacific Cooperative Studies Unit at the University of Hawaii to create a management plan. Carolyn Stewart was hired and recently began work on the plan.

The attached MOU was based largely on an MOU signed in 2003 by members of the Kauai Watershed Alliance, which includes some of the same partners. The Mauna Kea Watershed Alliance MOU has been reviewed by the State of Hawaii, Department of the Attorney General as to form. The MOU calls on members to:

- Identify important watershed areas that would benefit from coordinated management
- Develop plans to document resources, identify priority management objectives/strategies
- Meet to determine programs and projects
- Obtain funds for projects to the extent that each member agrees
- Develop specific agreements and plans for projects involving all or some members
- Enter into agreements to hire personnel, use equipment, purchase supplies
- Employ a consensus-based approach to decision making
- Allow additional members by amendment, by consensus of current members

Members also agree that the MOU does not obligate resources, lands, or funds nor does it create a legal partnership or modify the existing authority of any government agency.

DISCUSSION:

Division of Forestry and Wildlife staff strongly recommend entering into a MOU with the Mauna Kea Watershed Alliance as outlined above to facilitate the protection of key watershed areas on the island of Hawaii.

RECOMMENDATION:

That the Board authorize the Chairperson to sign a Memorandum of Understanding with the Mauna Kea Watershed Partnership, pursuant to the terms outlined above and subject to approval by the Attorney General.

Respectfully submitted,



PAUL J. CONRY, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

Attachments: Memorandum of Understanding, Mauna Kea Watershed Alliance
Map of the proposed Mauna Kea Watershed Alliance

MEMORANDUM OF UNDERSTANDING
Mauna Kea Watershed Alliance

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into on the _____ day of _____, 2009, by and among the Department of Land and Natural Resources of the State of Hawaii, by and through its Division of Forestry and Wildlife and its Land Management Division, the Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools, Parker Ranch, U.S. Army, U.S. Fish & Wildlife Service, Department of Hawaiian Home Lands, University of Hawaii (Office of Mauna Kea Management), and Kukaiau Ranch, collectively known as the Mauna Kea Watershed Alliance ("MKWA") and individually referred to as Members.

I. RECITALS

1. The Members recognize the importance of abundant and high-quality water to the well being of the island of Hawaii
2. The Members agree that management is needed to maintain healthy Watershed Areas in order to sustain the future quality and quantity of Mauna Kea's water supply. The Watershed Areas are generally identified on the map attached as Exhibit "1" and may be amended by agreement of all parties.
3. The Members agree that the management of these Watershed Areas would benefit Hawaii's other natural resources.
4. The Members agree to participate in the management of their own lands within the Watershed Areas.
5. The Members understand that some of the lands owned or controlled by the Members share common boundaries, and that many of the threats to the Watershed Areas, such as feral ungulates, fire, insects, diseases, and invasive non-native plants, occur across these common boundaries.
6. The members agree that coordinated actions of all Members in the care and management of the Watershed Areas are important to maintain the Watershed Areas, and that incidental economic and staffing advantages will occur through the coordinated actions of all Members.
7. It is the intent of MKWA to protect and better manage the Watershed Areas for the benefit of the public. It is not the intent of MKWA to benefit any individual Member landowners, except where such benefit may be incidental to the primary purpose of benefiting the public.

connection with watershed management activities will be determined by separate and specific written agreements entered into by the MKWA and/or its Members.

7. The MKWA will employ a consensus-based approach in making decisions in the interest of maintaining the broadest base of support.
8. The MKWA may allow additional Members to join the MKWA, by amendment of this MOU, if such addition is agreed to by consensus of the current Members.
9. Each Member expressly understands and agrees that:
 - a. Neither this MOU, nor any other actions or documents executed by any or all of the Members related to the MKWA shall establish a legal partnership between Members.
 - b. No Member shall have either the liability of a partner or the power to bind any other Member as a partner.
 - c. No Member shall represent or indicate in any manner to third parties that the Member is a partner of any other Member or Members hereto, or that collectively the Members (or any number of them) are a partnership, as defined by the laws of the State of Hawaii. Any party, other than the State of Hawaii, Department of Land and Natural Resources, who breaches this Paragraph 9.c shall indemnify, defend and hold harmless all other Members hereto from and against any and all losses, damages, liabilities, expenses, claims, suits, actions or causes of action, including reasonable attorney's fees, arising out of, or in any way connected with such breach.
10. This MOU shall not modify the existing authority of any government agency Member in reducing, expanding, or transferring any of the statutory or regulatory authorities and/or responsibilities of any such Members.
11. The MOU may be modified at any time by mutual written consent and shall become effective upon being reduced to a written instrument executed by all Members.
12. Any Member may terminate its participation in the MKWA by providing written notice to the MKWA and/or the other Members.
13. The MKWA does not intend that any Member receive any direct or indirect benefit by virtue of its participation in the Agreement, except where such benefit may be incidental to the primary purpose of maintaining healthy Watershed Areas on Mauna Kea. Members shall exercise care in obtaining funds and provide sufficient notification to Kamehameha Schools (KS) in the event funds are being obtained for use on KS lands.

IN WITNESS WHEREOF, the Members hereto have executed this MOU as of the first date above written.

Department of Land & Natural Resources

By _____

Date _____

Department of Hawaiian Home Lands

By _____

Date _____

Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools

By _____

Date _____

*University of Hawaii
Office of Mauna Kea Management*

By _____

Date _____

Mauna Kea Watershed Alliance (Exhibit 1)

